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IN THE
Supreme Court of the United States
OCTOBER TERM, 1946.

No. 306.

J. WILSON TURNER ET AL., *Petitioners.*

v.

MARIE McC. DEMING ET AL., *Respondents.*

**BRIEF FOR RESPONDENTS IN OPPOSITION TO
GRANTING WRIT OF CERTIORARI.**

REASONS RELIED ON IN OPPOSITION TO WRIT.

A review on writ of certiorari is not a matter of right, but of sound judicial discretion, and will be granted only where there are special and important reasons therefor. *Rule 38—5, of this court.*

“The jurisdiction to bring up cases by certiorari from the Circuit Court of Appeals was given for two purposes, first, to secure uniformity of decisions between those courts in the nine circuits, and second, to bring up cases involving questions of importance which it is in the public interest to have decided by this court of last resort. The jurisdiction was not conferred upon this court merely to give the defeated party in the

Circuit Court of Appeals another hearing. Our experience shows that 80 per cent. of those who petition for certiorari do not appreciate these necessary limitations upon our issue of the writ." *Magnum Import Co. v. Coty*, 262 U. S. 159-163.

Three reasons are relied upon by petitioners for allowance of the writ. (Petition 5.)

The first reason shows that the question involved is strictly local, petitioners claiming that the construction placed upon a statute pertaining to taxation in the District of Columbia, to wit, T. 47—Sec.: 701 D. C. Code (1940), (R. 43) is not such as they like or would construe it. Yet the construction of the United States Court of Appeals, complained of, is the only construction that could be placed upon it, or would make the statute sensible, and is the construction of the Assessor for the District of Columbia and the Justice in the trial court. (R. 36)

The second and third reasons, to wit, that the decision complained of is in conflict with the decision of the same court in the case of *Miller Devel. Co. v. Emig Prop. Corporation*, 77 App. D. C. 205; 134 Fed. (2), 36, is not correct. There was no question of undivided property in the Miller-Emig case. That question was not raised or considered by the court. The case was decided on other grounds. (See Opinion of Trial Court, R. 37)

Therefore, there is no showing in the petition or brief in support thereof which would, under the rules and practice of this court, justify the granting of the writ.

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Washington, July 23, 1946.